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8 CITY AND COUNTY OF SAN FRANCISCO
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10 UNITED STATES DISTRICT COURT
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12 NORTHERN DISTRICT OF CALIFORNIA

13 CALIFORNIA TOW TRUCK
14 ASSOCIATION,

15 Plaintiff,

16 vs.
17
18 Defendants.

CITY AND COUNTY OF SAN FRANCISCO
and DOES 1-50,

Case No. C10-03184 CRB

**STIPULATED APPLICATION TO CONTINUE
INITIAL CASE MANAGEMENT
CONFERENCE SET FOR 10/29/2010;
[PROPOSED] ORDER**

Hearing Date: October 29, 2010
Time: 8:30 a.m.
Judge/Place: The Honorable Charles R. Breyer
Courtroom 8, 19th Floor

Date Action Filed: July 12, 2010
Trial Date: None Set

In this case, the plaintiff contends that the defendant's ordinance, which requires tow companies and tow car operators to obtain permits before doing business in San Francisco, is preempted by federal and state law and violates the Commerce Clause of the United States Constitution. The plaintiff also contends that San Francisco has a practice of seizing tow trucks for operating without a permit, in violation of the Fourth Amendment to the United States Constitution.

1 After conferring, the parties are in agreement that this case presents questions that can be resolved by
2 cross-motions for summary judgment, without the conduct of discovery.

3 To avoid the unnecessary expenses associated with an initial case management conference, and
4 to avoid burdening the Court's schedule, the parties hereby request that the initial case management
5 conference be continued to February 18, 2011, with all deadlines associated with the initial case
6 management conference similarly continued, so that the parties may file cross-motions for summary
7 judgment, to be heard December 3, 2010, or at a subsequent date convenient to the Court. Assuming a
8 hearing on cross-motions for summary judgment is scheduled on December 3, 2010, the parties
9 propose the following briefing schedule:

- 10 • Plaintiff's motion for summary judgment to be filed on or before October 8, 2010
11 • Defendant's cross-motion/opposition to be filed on or before October 22, 2010
12 • Plaintiff's reply/opposition to be filed on or before November 5, 2010
13 • Defendant's reply to be filed November 19, 2010

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15 Dated: September 29, 2010

DENNIS J. HERRERA
City Attorney
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VINCE CHHABRIA
Deputy City Attorney

19 By: s/Vince Chhabria
20 VINCE CHHABRIA
21 Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

22 Dated: September 29, 2010

LAW OFFICES OF BROOKS ELLISON

24 By: **s/Patrick Whalen
25 PATRICK J. WHALEN
26 Attorneys for Plaintiff
CALIFORNIA TOW TRUCK ASSOCIATION

27 **pursuant to GO 45, the electronic signatory has
28 obtained approval from this signatory.

ORDER

The parties' request to continue the initial case management conference is GRANTED. The initial case management conference shall take place on February 18, 2011. The parties cross-motions for summary judgment shall be heard on December 3, 2010. Plaintiff's motion for summary judgment shall be filed on or before October 8, 2010. Defendant's cross-motion/opposition shall be filed on or before October 22, 2010. Plaintiff's reply/opposition shall be filed on or before November 5, 2010. Defendant's reply, if any, shall be filed on or before November 19, 2010.

Dated: October 1, 2010

